

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Leticia Rodriguez, Gabriel Garcia, and
Jimmy Garcia,

Complainants,

vs.

Verizon California, Inc. (U1002C),

Defendant.

(ECP)

Case 13-06-002

(Filed June 10, 2013)

Leticia Rodriguez and Jimmy Garcia for themselves
(Gabriel Garcia did not attend), Complainants.

Hope Christman, for Verizon California Inc., Defendant.

DECISION DISMISSING COMPLAINT FOR LACK OF JURISDICTION**Summary**

Complainants, Leticia Rodriguez, Gabriel Garcia and Jimmy Garcia accuse Defendant of breach of contract, fraud and misrepresentation for failure to fix their computer and for charging their telephone account for computer virus and hardware protection that was not provided and internet services that could not be utilized because of their non-operative computer.

Defendant, Verizon California Inc. (Verizon) asserts that the Commission lacks jurisdiction over the Complainant's computer as it is Customer Premises

Equipment (CPE). Verizon contends that the Commission is preempted from regulating CPEs by the Federal Communications Commission (FCC).¹

Defendant also asserts that the Commission lacks jurisdiction over the issue of the monthly fees the Complainants paid for computer virus and hardware protection services that were not provided and internet services that could not be utilized because of their non-operative computer. Verizon argues that these are non-regulated interstate information services over which the Commission, also, has no jurisdiction because of FCC preemption.² Verizon states that as a courtesy Complainants' have been provided full refunds/credits for the cost of the virus and hardware protection services and high speed internet service that allegedly did not work and/or could not be used.

We agree with Defendant and find that the Commission lacks jurisdiction in this matter. The case is dismissed.

Discussion

Verizon has accurately stated the relevant law in this proceeding. As Verizon has indicated, the Commission is preempted from jurisdiction over CPEs and lacks jurisdiction over information services, including internet services. Given that the Commission lacks jurisdiction over the matters at issue in the

¹ Defendant's Answer to Complaint citing: In the Matter of Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996, 16 FCC Red 6417, 6455 (FCC 1999) (citing Computer and Communications Industry Association v. FCC, 693 F. 2d 198, 213 (D.C. Cir. 1982), cert. denied, Louisiana Public Service Commission v. FCC, 461 U.S. 938(1983)).

² *Id.* citing: Broadband Framework Report and Order (FCC 05-150 released August 5, 2005), at ¶ [5, 14].

proceeding, the case is dismissed. Complainants may be able to seek a remedy in Superior Court.

O R D E R

IT IS ORDERED that:

1. The Complaint is dismissed for lack of jurisdiction.
2. Case 13-06-002 is closed.

This order is effective today.

Dated _____, at San Francisco, California.